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In re Application of BLACKBURN :
U.S. Application No.: 10/526,838 :
PCT Application No.: PCT/AU03/01096 :
Int. Filing Date: 27 August 2003 :
Priority Date Claimed: 03 September 2002 :
Attorney Docket No.: 75390-010100 :
For: LATCH ASSEMBLY WITH DEAD LATCH :
INDICATOR :

DECISION

This is in response to applicant's "Supplemental and Renewed Petition Under 37 C.F.R. § 1.47(b) and Petition Under 37 C.F.R. § 1.183 Filed November 27, 2006 and Response to Denial of Same Mailed November 29, 2007" filed 26 February 2007.

BACKGROUND

On 27 August 2003, applicant filed international application PCT/AU03/01096, which claimed priority of an earlier Australia application filed 03 September 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 18 March 2004. The thirty-month period for paying the basic national fee in the United States expired on 03 March 2005.

On 03 March 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 08 September 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 10 April 2006, applicant filed a petition under 37 CFR 1.47(b).

On 09 May 2006, this Office mailed a decision dismissing the 10 April 2006 petition.

On 06 July 2006, applicant filed a renewed petition under 37 CFR 1.47(b).

On 25 July 2006, this Office mailed a decision dismissing the 06 July 2006 petition.

On 27 November 2006, applicant filed a renewed petition under 37 CFR 1.47(b) and a petition under 37 CFR 1.183.

On 29 November 2006, this Office mailed a decision dismissing the 27 November 2006 petitions.

On 26 February 2007, applicant filed the present renewed petitions under 37 CFR 1.47(b) and 37 CFR 1.183.

DISCUSSION

I. Renewed Petition Under 37 CFR 1.47(b)

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

Petitioner has previously satisfied items (1), (2), (3), (5), and (6) above.

With regard to item (4) above, petitioner still has not supplied an oath or declaration in compliance with 35 U.S.C. 115 and 37 CFR 1.497. The purported declaration filed with the present renewed petition fails to state that the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought as required by 37 CFR 1.497(a)(4). Furthermore, the purported declaration is neither signed by a person who has apparent authority to act on behalf of the assignee (see MPEP 324, Section V) nor does the submission set forth that the person signing is authorized to act on behalf of the assignee. Additionally, although not required at this time, the purported declaration fails to satisfy the requirements of 37 CFR 1.63(b)(2)-(3) and 37 CFR 1.63(c)(1). Although the declaration filed 10 April 2006 is properly executed, it fails to state the name and citizenship of the inventor as discussed in the decisions mailed 09 May 2006, 25 July 2006, and 29 November 2006.

II. Petition Under 37 CFR 1.183

37 CFR 1.183 states,

In an extraordinary situation, when justice re-quires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

The renewed petition requests favorable consideration under 37 CFR 1.183 but fails to specify a requirement of the regulations for which a waiver is sought.

CONCLUSION

For the reasons set forth in §I above, the renewed petition under 37 CFR 1.47(b) is DISMISSED without prejudice.

For the reasons set forth in §II above, the petition under 37 CFR 1.183 is DISMISSED without prejudice.

If reconsideration on the merits of the petitions is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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